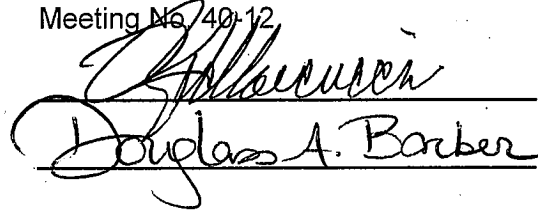


Approved: Meeting No. 40-12

Attest:



Douglas A. Barber

MAYOR AND COUNCIL
ROCKVILLE, MARYLAND

June 4, 2012

Meeting No. 21-12

7:00 p.m.

PRESENT:

Mayor Phyllis Marcuccio, Councilmember John F. Hall, Jr., Councilmember Tom Moore, Councilmember Bridget Donnell Newton, and Councilmember Mark Pierzchala

STAFF PRESENT:

Acting City Manager Jenny Kimball, City Clerk Doug Barber, and Assistant City Attorney Cynthia Williams.

1. Convene

The Mayor and Council met at 7:10 p.m. on Monday, June 4, 2012, in Mayor and Council Chambers, Rockville City Hall, 111 Maryland Avenue, Rockville, Maryland 20850.

2. Pledge of Allegiance

Mayor Marcuccio led the Pledge of Allegiance.

3. Agenda Review

City Clerk Barber advised that there were no changes to the agenda.

4. City Manager's Report

Acting City Manager Kimball reported to the Mayor and Council that the 23rd Annual Public Safety Awards ceremony is scheduled for Wednesday, June 6 at 11:30 a.m. Ms. Kimball thanked the Rockville City Police officers who will receive awards at the Ceremony, and acknowledged everything they do for the community. Ms. Kimball advised that the City is looking for representatives of the business community and residents and in the fields of education, government and nonprofit sectors to serve on one of six working groups for the 2012 Rockville Summit.

5. Appointments and Announcement of Vacancies

Motion: To reappoint Monica Beller to the Animal Matters Board as a member until June 1, 2015.

Moved by Councilmember Hall, seconded by Councilmember Newton and unanimously approved.

Motion: To appoint Lois Neuman to the Board of Supervisors of Elections as a member until June 1, 2016.

Moved by Councilmember Moore, seconded by Councilmember Hall and unanimously approved.

Motion: To appoint Roland Adams, Jr. to the Landlord Tenant Affairs Commission as an at-large member to fill an unexpired term until April 1, 2014.

Moved by Councilmember Newton, seconded by Councilmember Pierzchala and unanimously approved.

Motion: To appoint Mary Caroline Colletti to the Landlord Tenant Affairs Commission as an at-large member to fill an unexpired term until July 1, 2014.

Moved by Councilmember Newton, seconded by Councilmember Hall and unanimously approved.

Mayor Marcuccio announced her forth coming appointment of Jack Leiderman to the Planning Commission.

Note: The following Boards and Commissions vacancies were not announced by Mayor Marcuccio: Charter Review Commission, Compensation Commission, Environment Commission, Human Rights Commission, Planning Commission, Senior Citizens Commission, and the Sign Review Board.

6. Citizen's Forum

<i>Citizen</i>	<i>Issue</i>
Dena Alzouma	The City's Finest Program.
Amina Alzouma	The City's Finest Program.
Khalid Alzouma	The City's Finest Program.
Brad Botwin	Season Opener for Rockville Express; thanked the City for its efforts in securing lights for the field.
Warren Crutchfield	Problems associated with the Memorial Day Parade lineup on the street in front of his home.
Robert Gale	Concerns with water sub meter; requested City to reimburse him for the purchase of his sub meter.

7. Mayor and Council's Response to Citizen's Forum and Announcements

Councilmember Hall	Asked Mr. Gale how much his sub meter cost and he responded \$309.00; general discussion ensued on the purpose of sub meters and their use in the City.
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Mayor Marcuccio	Thanked the Alzouma Family for sharing their experience with The Finest Program; responded to Mr. Crutchfield and assured him that the City would look into the matter; pleased that Rockville Express is beginning another year of baseball and they can now play under the lights.
Councilmember Newton	Mature presence of the Alzouma children; wished them well in the program.
Councilmember Pierzchala	Additional plug for the Rockville Express; several former players are now in the major league; local high quality baseball.
Councilmember Moore	Thanked the Alzoumas for their comments; The Finest has done them proud and they have done The Finest proud.

8. Consent Agenda

Councilmember Newton requested that Consent Agenda items B and C be removed.

Motion: To approve Consent Agenda item A. The award of rider contract for #2 ultra-low sulfur diesel fuel for city vehicles and equipment for a contract period up to five years in the aggregate amount not to exceed \$1,430,000.

Moved by Councilmember Hall, seconded by Councilmember Moore and unanimously approved.

Regarding Item B, Councilmember Newton confirmed with Planner Jeremy Hurlbutt that this resolution was simply to correct a typographical error and that everything else from the previous resolution approving the Twinbrook Metroplace Development remained the same.

Motion: To adopt Consent Agenda Item B - Resolution to amend Resolution No. 2-12 in order to correct the maximum building heights shown for buildings 2 and 3 of Project Plan Application #PJT2012-00002, Twinbrook Metro Place

Moved by Councilmember Hall, seconded by Councilmember Pierzchala with Mayor Marcuccio and Councilmembers Hall, Moore, and Pierzchala approving, and Councilmember Newton opposing.

Motion Passed: 4 approved - 1 opposed - 0 abstained

C. Award of a Rider Contract for the Purchase of an Integrated High-Definition Camera and Audio Visual Presentation System for the Mayor and Council Chambers for the Amount of \$350,011.73

Regarding Item C, Councilmember Newton expressed concerns with the planned improvements for the Mayor and Council Chambers. Rockville 11 Manager Brouillire responded to concerns raised by the Mayor and Council on current equipment. Ms. Brouillire spoke on some of the technical aspects of high definition cameras and noted that the goal is to replace the cameras and at the same time improve the audio visual presentation in the Mayor and Council Chambers. Representatives from Human Circuit, the vendor who will do the renovation,

addressed the Mayor and Council and discussed high definition technology and the benefits of new equipment.

Motion: To approve consent agenda item C, the award of a rider contract for the purchase of an integrated high-definition camera and audio visual presentation system for the Mayor and Council Chambers for the Amount of \$350,011.73.

Moved by Councilmember Hall, seconded by Councilmember Newton and unanimously approved.

9. Adoption of an Ordinance to Amend Ordinance #4-12 to Appropriate Funds and Levy Taxes for Fiscal Year 2012

Director of Finance Cohen provided the staff presentation and there was ensuing discussion which included items related to the Parking Fund, the Redgate Fund, the Special Activities Fund, and the Capital Improvement Project fund.

Motion To adopt ordinance to amend Ordinance #4-12 to appropriate funds and levy taxes for Fiscal Year 2012.

Moved by Councilmember Hall, seconded by Councilmember Moore and unanimously approved.

10. Approval - Letter on the Proposed City of Gaithersburg Annexation of the Sears Property

Chief of Long Range Planning and Redevelopment Levy provided the staff report. Mr. Levy noted that the City of Gaithersburg is in the process of evaluating an application for annexation from Sears, Roebuck and Company (Sears) for the 13.8-acre property located at 16311 and 16401 Shady Grove Road. The current uses on the property are a large-scale retail store (The Great Indoors) and the operations of Sears Service Center and Repair. There was broad discussion which included topics related to:

- Is property actually annexable by Rockville; what kind of zoning would Rockville apply to that site;
- Rockville will demonstrate a collaborative effort; two cities have built an excellent long-term relationship; testimony should express concern over damaging the relationship;
- Property declared by both municipalities in their Maximum Expansion Limits (MEL)
- What are the logical and efficient boundaries; logically, the site belongs in Rockville; crossing over Shady Grove Road is alarming; location of property was not listed in Rockville's boundaries until the City completed its Municipal Growth Element;
- Timeline of the annexation; City of Gaithersburg aggressive in terms of economic development; and interested in expanding their tax base;
- The need to think 20, 30, 40 years out;

- Rockville's testimony to Gaithersburg should include: Maryland Department of Planning Board initially agreed that this property would eventually be annexed into Rockville; Memorandum of Understanding (MOU) between the City of Rockville and Gaithersburg, that both jurisdictions need to consider one another; strong language (not threatening in tone) that this annexation should not take place; the draft of Rockville's testimony is diplomatic and that Gaithersburg's consideration of this annexation has not been very friendly to the interests of Rockville.
- Land use is not the issue - matter of encroachment; County not willing to make a change to that site in terms of zoning.
- Likely that Sears will sell to developer – property is more valuable if it receives different zoning.
- County has a proposal for an arena near the site.
- Process involved to annex the other properties near site (Betty Ann Casey property and County owned road leading to Transfer Station).
- Address the City of Gaithersburg after testimony is submitted; have more conversations prior to the close of public record.

At the conclusion of the discussion, the Mayor and Council directed staff to: incorporate Attachment B (the City of Rockville and City of Gaithersburg Boundaries and Maximum Expansion Limits Map) to the City's testimony; revise the testimony in accordance with the discussion this evening; draft a separate letter to Montgomery County asking for their help in this matter; and find out if the State and County have the power to object that might stop the process. Community Planning and Development Services, Chief of Long Range Planning and Redevelopment Levy, clarified with the Mayor and Council that their intention was to review the following: a proposed letter to the City of Gaithersburg regarding the proposed annexation and a separate letter to the Montgomery County Council stating the City of Rockville's concerns and point of view with the proposed annexation and to request assistance in the matter.

11. Discussion and Instruction of an Ordinance to Revise and Amend Chapter 5 of the Rockville City Code entitled "Buildings and Building Regulations"

Acting Chief of Inspection Services Purkey presented the staff report and highlighted the proposed revisions to Chapter 5. Ensuing discussion included items relating to: clarifications to Fire Department Access and stair locations; guidance for the exception to Fire Protection Engineer Design Evaluation for certain projects; the effect of removal of Energy Star appliances and HVAC due to Federal preemption; copies of all building codes being housed by Inspection Services rather than the Office of the City Clerk; ICC Code books not on the web; legal responsibility as it relates to designation of powers and duties and the use of the word "qualified"; devise language that distinguishes between what is relevant qualification and what is not; staff will provide analysis of what the unintended consequence could be; property maintenance section and trash receptacle (dumpsters); problem in Town Center with odor and rodents; definition of Fire Code Official and Chief of Inspection Services. Mr. Purkey closed by noting the proposed Ordinance is scheduled to be adopted at the June 18 meeting.

12. Adoption of Mayor and Council Strategic Goals and Principles

Councilmember Moore said that overall, it is a very good document. He proposed that the first bullet say *"committed to maintaining responsible residential and commercial property rates"*. Councilmember Hall said that he would prefer... *"If there is going to be growth in residential and commercial property tax rates then it would be limited."*

Councilmember Moore suggested the following language for the 4th bullet... *"we will seek to provide moderate broad based tax relief for Rockville's homeowners."* He said that this year, we decided not to provide broad based relief but instead targeted relief through the State's Homeowner's Property Tax Credit enhancements so he would like to strike that.

Re: Public Service and Public Safety, he would like to add a bullet to the effect of *"we will protect the privacy of Rockville's residents by limiting the non-essential personal and locational information the City keeps."* Councilmember Hall agrees in part, but thinks the language should be *"we will strive to protect, etc."* Adding the word strive. There was discussion on the types of information that the City collects on its citizens and the need to establish a privacy policy and a lifecycle on the data collected. There was discussion on the Montgomery County program of license plate readers in police cars. These devices allow the government to keep records indefinitely. Councilmember Moore said he has serious privacy concerns and asked do we really want the government to track our moves at all times and keep that information definitely?

Councilmember Pierzchala said he was comfortable with the language that Councilmember Moore proposed. He agrees that a proper Privacy Policy needs to be developed.

Councilmember Moore said that the only way to ensure that personal data is not misused is to not keep it at all. Councilmember Newton suggested that the Police Department weigh in on this issue to be sure that this would not impact anything from a public safety perspective.

For clarity, Councilmember Hall recapped the statement as follows: *"We will strive to protect the privacy of Rockville's residents by limiting the non-essential personal and locational information that the City retains, consistent with relevant laws and policies"* In response, Councilmember Moore said that the phrase "consistent with relevant laws and policies" could be added to every goal of the Strategic Goals and Principles document, and there was more discussion on how to phrase this bullet. Mayor Marcuccio said that privacy is the wrong word to use and we should be talking about protecting personal data. Councilmember Moore said that though it weakens what he had intended, he could agree with Councilmember Hall's earlier rephrasing of this item. There was agreement by all to use the language as stated by Councilmember Hall. With respect to the first bullet, there was also agreement to go with Councilmember Moore's suggestion of: *"committed to maintaining responsible residential and commercial property rates"* and also under Goal #1 to strike the term *"broad based."*

Motion: To adopt the Mayor and Council Strategic Goals and Principles as amended.

Moved by Councilmember Hall, seconded by Councilmember Moore and unanimously approved.

13. Review and Comment regarding Mayor and Council Action Report

Councilmember Newton asked that the clear cutting of trees along Maryland Avenue and proposed bike path in connection with the development of that parcel of land (Victory Housing) be placed onto next week's agenda. Councilmember Pierzchala said that while he would not mind having a discussion, the site plans for that project have already been approved.

14. Review and Comment regarding Future Agendas

Councilmember Pierzchala noted that because he will be out of the country on June 18, he requested the Charter Review Commission membership item could be moved to the meeting on June 11. Councilmember Newton asked if an Executive Session on that same topic could be added to the June 11th meeting. There was discussion on the selection process and how the members would be chosen by the Mayor and Council. There was discussion on the timeline and the mechanism for arriving at the five non Mayor and Council selections and the pros and cons of doing this in executive session versus a public meeting. There was agreement to hold an Executive Session on June 11 for the purpose of discussion on the Charter Review Commission membership.

15. Mayor and Council Liaisons to Boards and Commissions Report

No Board and Commission reports were given.

16. Old/New Business

Councilmember Newton hosted a wine tasting event with wine purchased at the Community Ministries fundraising event. She looks forward to hosting the event again especially since Councilmember Hall purchased it at this year's gala. Councilmember Newton said that she had attended the funeral of longtime Rockville resident/activist Norma Duffin. Back to the revisions to Chapter 5, Councilmember Newton identified pages A-115 and A-116 where it related to parking garages and reiterated her earlier concerns about the dumpsters in the Town Center garages.

Councilmember Pierzchala attended the Retirement Board meeting and will soon bring forward research directives from the Board that deal with new hires on a defined contribution plan rather than a mixed defined benefit, as well as public systems rate of return. Councilmember Pierzchala mentioned the 1% raise given to some of City employees and asked the City Attorney to research the AFSCME agreement because he believes that this increase was not in conformance with that agreement.

Councilmember Moore mentioned that the City won the Town Center lawsuit dealing with the garages. He offered his appreciation to the law firm of Venable as well as the City Attorney for such a huge victory. Councilmember Moore mentioned the opening of Vie de France, Bar Louie and Pho and Rolls in Town Center. He and Councilmembers Hall and Pierzchala attended the community event for the three finalists in the City Manager search. Councilmember Moore received helpful feedback from some of the residents who attended and he thanked all those who participated in this very important process.

17. Adjournment

There being no further business, the meeting adjourned at 10:07 p.m.

Motion: To adjourn.

Moved by Councilmember Hall, seconded by Councilmember Newton and unanimously approved.